IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 33/2006
AND
CIVIL APPLICATION NO. 123/2006

Mr. Sebastiana Escolastic Beatriz
Nunes Mendonca alias Beatriz Mendonca. ..... Appellant.

V/s.

M/s. Ravalnath Builders. ..... Respondent.

Mr. M. B. D'Costa, Senior Advocate with Mr. J. A. Lobo, Advocate for the appellant.

Mr. A. R. Kantak, Advocate for the respondent.

CORAM : P.V. KAKADE, J.

DATE : 14TH AUGUST, 2006.

P.C.

Heard both sides. Perused the record. This is an appeal preferred by the appellant-plaintiff against the order dated 6th October, 2005 passed by the Civil Judge, Senior Division, Panaji rejecting the application for temporary injunction under Order 39, Rules 1 and 2 of the Civil Procedure Code. The property involved in the suit is the immovable property.

2. It is stated at the Bar that the suit is fixed for recording evidence in the month of September, 2006 and, therefore, it was submitted on behalf of the respondent that there is no point in adjudicating the appeal on merits. The respondent further undertakes to keep two tenements of two bedrooms each in the building under construction vacant as guarantee for the cost involved in this dispute. The learned Counsel for the appellants is agreeable to such a proposal, especially when the suit itself is being disposed of within a short time.

3. Under the circumstances, I do not see any reason why the appeal should be adjudicated on merits, especially when the suit itself would be disposed of under the directions of this Court within a short time.

4. Hence, the Court of the Civil Judge, Senior Division, Panaji, Goa is directed to adjudicate Special Civil Suit No.20/05/B which is fixed for recording evidence, within a period of nine months from the date of receipt of writ of this Court. This order is being passed on the basis of an undertaking by the respondent that two tenements of two bedrooms each in the building under construction shall be kept vacant for the purpose as noted above till the suit is disposed of on merits. With this direction, the appeal stands disposed of with no order as to costs. Consequently, the civil application also stands disposed of with no order as to costs.

P.V. KAKADE, J.

ssm.